



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

2005 APR 22 AM 8:27

999 18TH STREET- SUITE 300

DENVER, CO 80202-2466

Phone 800-227-8917

<http://www.epa.gov/region08>

FILED
EPA REGION VIII
HEARING CLERK

DOCKET NO.: FIFRA-08-2005-0002

IN THE MATTER OF:

MT. GARFIELD WINERY CORP.

d/b/a GARFIELD ESTATES VINEYARD

AND WINERY

3572 G Road

Palisade, CO 81526

FINAL ORDER

RESPONDENT

Pursuant to 40 C.F.R. §22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondents are hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondents of this Consent Agreement and Final Order.

April 22, 2005
DATE

Alfred C. Smith
Alfred C. Smith
Regional Judicial Officer

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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Docket No. FIFRA-08-2005-0002

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IN THE MATTER OF:

Mt. Garfield Winery Corporation
d.b.a. Garfield Estates Vineyard
and Winery
3572 G Road
Palisade, CO 81526,

)
)
)
) **CONSENT AGREEMENT**
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)
)
)
)

Respondent

Complainant, United States Environmental Protection Agency, Region VIII ("EPA"), and Mt. Garfield Winery Corporation d.b.a. Garfield Estates Vineyard and Winery ("Respondent"), by their undersigned representative(s), hereby consent and agree as follows:

I. PRELIMINARY STATEMENT

1. This matter is subject to 40 C.F.R. Part 22. This Consent Agreement is entered into by the parties for the purpose of concluding this matter, as provided for in 40 C.F.R. section 22.18(b)(2).
2. The Complaint filed in this matter alleges that Respondent failed to display specific pesticide application information and failed to provide a certified trainer or certified applicator during its training of its workers, as required by the Worker Protection Standard ("WPS"), codified in 40

C.F.R. part 170, in violation of section 12(a)(2)(G) of FIFRA, 7 U.S.C. section 136j(a)(2)(G).

3. This Consent Agreement applies to and is binding upon EPA and upon Respondent, and Respondent's officers, directors, employees, agents, successors and assigns. Any change in the constitution of Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter Respondent's responsibilities under this Consent Agreement.
4. Respondent waives its right to a hearing on any issue of law or fact set forth in the Complaint.
5. Respondent admits the jurisdictional allegations and neither admits nor denies the specific factual allegations contained in the Complaint and in the Consent Agreement.

II. FACTUAL STIPULATIONS

6. Respondent applied pesticides on three separate occasions between July 2004 and August 2004.
7. Respondent failed to comply with the Worker Protection Standard in each instance when the applications referenced in paragraph 6 were made. Specifically, Respondent failed to display specific pesticide application information, as required by 40 C.F.R. section 170.122, and to provide a certified trainer or certified applicator during its training of its workers, as required by C.F.R. section

170.130(c) and *handlers*, as required by 40 C.F.R. section 170.230(c).

8. Respondent's failure to comply with the Worker Protection Standard, described in paragraphs 6 and 7 above, resulted in 5 violations of FIFRA 12(a)(2)(G), 7 U.S.C. section 136j(a)(2)(G).

III. TERMS OF SETTLEMENT

9. The Complaint filed in this matter proposed a higher penalty assessment than the amount agreed to herein. For good cause shown, specifically, Respondent's inability to pay the proposed penalty stated in the Complaint, and for the purposes of settlement, Complainant agrees to reduce the penalty proposed in the Complaint to ONE HUNDRED DOLLARS (\$100.00).
10. Respondent consents to the issuance of a Final Order which incorporates the terms and conditions of this Consent Agreement, and to pay the civil penalty set forth in Paragraph eleven (11) below.
11. Respondent agrees to pay a penalty in the amount of ONE HUNDRED DOLLARS (\$100.00).
12. Respondent agrees to pay the above stated penalty amount on or before May 30, 2005. This payment shall be made by

remitting a cashier's or certified check for that amount,
payable to "Treasurer, United States of America," to:

Mellon Bank
EPA Region 8
(Regional Hearing Clerk)
P.O. Box 360859
Pittsburgh, PA. 15251-6859

The check shall reference the name and address of
Respondent's facility and the EPA docket number (Docket No.
FIFRA-08-2005-0002) of this action. A copy of the check
shall be sent simultaneously to:

Tim Osag
Technical Enforcement Program (8ENF-T)
U.S. EPA Region VIII
999 18th Street, Suite 300
Denver, Colorado 80202-2466

13. Respondent agrees and consents that if Respondent fails to
pay the penalty amount on or before the due date set forth
in paragraph twelve (12) above, interest on the penalty
amount or any unpaid balance shall accrue at a rate
established by the Secretary of the Treasury pursuant to 31
U.S.C. § 3717. A late payment charge of twenty dollars
(\$20.00) shall be imposed after the first 30 days that the
payment, or any portion thereof, is overdue, with an
additional charge of ten dollars (\$10.00) imposed for each
subsequent 30-day period until the payment due is made. In
addition, a six percent (6%) per annum penalty shall be

applied on any principal amount not paid by the due date set forth in paragraph twelve (12) above.

14. This Agreement shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law.
15. This Consent Agreement, upon incorporation into a Final Order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete, full and final settlement of the specific violations alleged in the Complaint filed in this matter.
16. Each undersigned representative of the Parties to this Consent Agreement certifies that he or she is fully authorized by the party represented to bind the parties to the terms and conditions of this Consent Agreement and to execute and legally bind that party to this Consent Agreement.
17. Each party shall bear its own costs and attorneys fees in connection with all issues associated with this matter.

IN THE MATTER OF: Mt. Garfield Winery Corporation d.b.a.
Garfield Estates Vineyard and Winery
Docket No. FIFRA-08-2005-0002

UNITED STATES ENVIRONMENTAL PROTECTION
AGENCY, REGION 8,
OFFICE OF ENFORCEMENT, COMPLIANCE, AND
ENVIRONMENTAL JUSTICE,

Complainant.

Date:

4/19/05

By:

David J. Janik

Michael T. Risner, Director
David J. Janik, Supervisory
Enforcement Attorney
Legal Enforcement Program

Date:

4/21/05

By:

Elisabeth Evans

Elisabeth Evans, Director
Technical Enforcement Program

Date:

4/19/2005

By:

Eduardo Quintana

Eduardo Quintana
Enforcement Attorney
Legal Enforcement Program
Phone: (303)-312-6924
FAX: (303) 312-6953

IN THE MATTER OF:

Mt. Garfield Winery Corporation d.b.a.
Garfield Estates Vineyard and Winery,
Docket No. FIFRA-08-2005-0002

Mt. Garfield Winery Corporation d.b.a.
Garfield Estates Vineyard and Winery,

Respondent.

Date: 4-21-05

By:

NAME:

TITLE:

MA Com

Jeff A. Carl

VP/Secretary

Mt. Garfield Winery Corp.

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter **MT. GARFIELD WINERY CORP., d/b/a GARFIELD ESTATES VINEYARD AND WINERY, DOCKET NO.: FIFRA-08-2005-0002** was filed with the Regional Hearing Clerk on April 22, 2005.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Eduardo Quintana, Enforcement Attorney, U. S. EPA – Region 8, 999 18th Street, Suite 300, Denver, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on April 22, 2005, to:

Jeff Carr
Vice President/Secretary
Mt. Garfield Winery Corp.
3572 G Road
Palisade, CO 81526

And pouch mailed to:

Honorable Susan L. Biro
Chief Administrative Law Judge
Office of Administrative Law Judges
U. S. EPA, Mail Code 1900L
Ariel Rios Building
1200 Pennsylvania Avenue, NW
Washington, DC 20460

April 22, 2005



Tina Artemis
Regional Hearing Clerk



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